

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

**REPLY DECLARATION OF MICHAEL D. MATTHEWS, JR.
IN FURTHER SUPPORT OF XOOM'S MOTIONS *IN LIMINE***

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Reply Declaration in further support of XOOM's Motions *in Limine*.

1. Annexed hereto as **Exhibit 8** is a true and correct copy of a transcript of the recording of the November 6, 2019, oral argument before the Second Circuit in *Mirkin v. XOOM Energy, LLC*, 931 F.3d 173 (2d Cir. 2019). The recording is available at https://www.ca2.uscourts.gov/oral_arguments.html (search for "Mirkin").

2. Annexed hereto as **Exhibit 9** is a true and correct copy of relevant excerpts from the November 8, 2022, deposition of Seabron Adamson.

3. Annexed hereto as **Exhibit 10** is a true and correct copy of relevant excerpts from the July 22, 2022, deposition of Ryan Park.

4. Annexed hereto as **Exhibit 11** is a true and correct copy of relevant excerpts from the July 27, 2022, deposition of Jason Loehde.

5. Annexed hereto as **Exhibit 12** is a true and correct copy of the March 1, 2024, Declaration of Jason Loehde, without exhibits.

6. Annexed hereto as **Exhibit 13** is a true and correct copy of relevant excerpts from the May 11, 2022, deposition of Andrew Coppola.

7. Annexed hereto as **Exhibit 14** is a true and correct copy of XOOM's Interrogatory Responses dated September 30, 2020.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 2024.

A handwritten signature in black ink, appearing to read "Michael D. Matthews, Jr.", written over a horizontal line.

Michael D. Matthews, Jr., Esq.